USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: ______
DATE FILED: 11/15/12

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KARTHIKEYAN V. VEERA,

Plaintiff,

v.

AMBAC PLAN ADMINISTRATIVE COMMITTEE, et al.,

Defendants.

Case No: 1:10-CV-4191 (HB)

ORDER AND FINAL JUDGMENT

This action having come before the Court on November 14, 2012, for a hearing (the "Fairness Hearing") on Plaintiff's motion for an order granting final approval of the proposed settlement (the "Settlement") of this litigation (the "Action"), as preliminarily certified as a non-opt-out class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1) for settlement purposes only; the proposed Plan of Allocation in accordance with the Stipulation of Settlement dated July11, 2012 (the "Settlement Agreement"); and Plaintiff's motion for an award of attorneys' fees and for reimbursement of expenses and for a case contribution award for Plaintiff; and the Court having read and considered these motions, heard the arguments of counsel, granted preliminary approval of the Settlement by Order dated August 3, 2012 (Dkt No. 89) (the "Preliminary Approval Order"), and considered all objections raised; and all Parties having consented to the entry of this Order;

IT IS HEREBY ORDERED AND ADJUDGED:

1. To the extent not otherwise defined herein, all terms shall have the same meaning as used in the Stipulation of Settlement dated July 11, 2012 (the "Settlement Agreement").

2. The Court has jurisdiction over the subject matter of this Action and over all Parties to this Litigation, including all members of the Settlement Class.

3. The Court determines that Plaintiff is asserting claims on behalf of the Ambac Financial Group, Inc. Savings Incentive Plan ("SIP" or the "Plan"), pursuant to ERISA §§ 409, 502(a)(2), and 502(a)(3), to recover losses alleged to have occurred as a result of Defendants' breaches of fiduciary duty and to seek other equitable relief.

4. The Court determines that the Settlement, which includes the payment of *Two Million Five Hundred Fifty Thousand U.S. Dollars*, $2,550,000.00 on behalf of Defendants, has been negotiated vigorously and at arm's length by and between Class Counsel and Defendants' counsel. The Court further finds that, at all times, Plaintiff has acted independently and that Plaintiff and Class Counsel have fairly and adequately represented the Settlement Class in connection with the Action and the Stipulation. The Court further finds that the Settlement arises from a genuine controversy between the Parties and is not the result of collusion, nor was the Settlement procured by fraud or misrepresentation.

5. The Court finds that the SIPs' participation in the Settlement is on terms no less favorable than those of Plaintiff and the Settlement Class and that the SIP does not have any additional claims above and beyond those asserted by Plaintiff that are released as a result of the Settlement. The Court also finds that the Settlement is not part of an agreement, arrangement, or understanding designed to benefit a party in interest, but rather is designed and intended to benefit the SIP, the SIP's participants, and all beneficiaries. Accordingly, the Court determines that the negotiation and consummation of the Settlement by Plaintiff on behalf of the SIP and the Settlement

Class does not constitute a "prohibited transaction" as defined by ERISA §§ 406(a) or (b), 29 U.S.C. §§ 1106(a) or (b). Further, the Court finds that, to the extent any of the transactions required by the Settlement constitute a transaction prohibited by ERISA § 406(a), 29 U.S.C. § 1106(a), such transactions satisfy the provisions of Prohibited Transaction Exemption 2003-39, 68 Fed. Reg. 75632 (2003).

6. The Court hereby approves and confirms the Settlement embodied in the Settlement Agreement as constituting a fair, reasonable, and adequate settlement and compromise of this Action in accordance with all applicable law, including Federal Rule of Civil Procedure 23, and orders that the Settlement Agreement shall be effective, binding, and enforced according to its terms and conditions.

7. The Court determines that the Notice transmitted to the Settlement Class, pursuant to the Preliminary Approval Order and in accordance with the Settlement Agreement, is the best notice practicable under the circumstances and included individual notice to all members of the Settlement Class who could be identified through reasonable efforts. Such Notice provides valid, due and sufficient notice of the Fairness Hearing and of the other matters set forth therein, including the terms of the Settlement Agreement and the Settlement, and such Notice has fully satisfied the requirements of Federal Rule of Civil Procedure 23 and the requirements of due process.

8. The Court hereby approves the maintenance of the Action as a non-opt-out class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(1) with the class being defined as:

> all Persons who were participants in or beneficiaries of the Plan and who held Ambac common stock in their Plan accounts at any time between October 1, 2006 through July 2, 2008. The "Settlement Class" shall not include any of the Defendants or any of the Individual Defendants' Immediate Family, beneficiaries, alternate payees, Representatives or Successors-In-Interest, except to the extent Immediate Family, beneficiaries, alternate payees, Representatives or Successors-In-Interest were themselves participants in the Plan.

Pursuant to Federal Rule of Civil Procedure 23(g), the Court also hereby confirms its prior appointment of Plaintiff as the representative of the Settlement Class and of Stephen J. Fearon, Jr. Caitlin Duffy and Garry T. Stevens, Jr. of Squitieri & Fearon LLP as Class Counsel.

9. Based on the Settlement, the Court hereby dismisses the Complaint and the Action against Defendants with prejudice on the merits.

10. As of the date of Final Settlement Approval, the Plaintiff, the SIP, and each member of the Settlement Class, on their own behalf and on behalf of their present or former agents, employees, attorneys, accountants, representatives, advisers, investment bankers, trustees, parents, heirs, estates, executors, administrators, successors and assigns, shall release any and all claims of any nature whatsoever (including, but not limited to, claims for any and all losses, damages, unjust enrichment, attorneys' fees, disgorgement of fees, litigation costs, injunction, declaration, contribution, indemnification, or any other type or nature of legal or equitable relief) against Defendants and their respective current or former officers, directors, employees, insurers and their re-insurers, administrators, representatives, attorneys, affiliates, parent corporations, subsidiaries, predecessors, successors, committees, trustees, managers, fiduciaries, conservators, estates, legatees, assigns or agents, including without limitation, current or former members of the Ambac Financial Group, Inc. ("Ambac") or Ambac Assurance boards of directors; current or former members of the Ambac Plan Administrative Committee, the Ambac Compensation Committee, and the Ambac Plan Investment Committee; and any fiduciaries of the Plan (collectively the "Released Parties"), whether accrued or not, whether already acquired or acquired in the future, whether known or unknown in law or equity brought by way of demand, complaint, cross-claim, counterclaim, third-party claim or otherwise, arising out of any or all of the acts, omissions, facts, matters, transactions or occurrences that are, were or could have been alleged, asserted, or set forth in the Complaint or the Action, or that are related in any way to any of the allegations or claims asserted in the

Complaint or the Action, including but not limited to claims that Defendants and/or any fiduciaries of the Plan breached their ERISA fiduciary duties in connection with (a) the offering of Ambac Stock in the Plan; (b) the acquisition and holding of Ambac stock by the Plan or the Plan's participants, (c) the appointing or monitoring the Plan's fiduciaries: (d) the loyalty of the Plan's fiduciaries regarding Ambac or Ambac stock (collectively the "Released Claims"). The Released Claims do not include any claims at issue in Ambac's bankruptcy proceeding (*In Re: Ambac Financial Group, Inc.*, Chapter 11, Case No. 10-15973 (S.D.N.Y., Bankruptcy)); the Wisconsin Segregated Account proceeding; the securities class action proceeding (*In Re Ambac Financial Group Inc. Securities Action*, Case No. 08-CV-0041-NRB); or in the two shareholder derivative actions (*In Re Ambac Financial Group, Inc. Shareholders Derivative Action*, C.A. No. 3521-VCL (Del. Ch.) and *In Re Ambac Financial Group, In. Derivative Action*, Case No. 08-Civ-854-SHS (S.D.N.Y.)).

11. As of the date of Final Settlement Approval, Defendants, including their present or former agents, employees, attorneys, accountants, representatives, advisers, investment bankers, trustees, parents, heirs, estates, executors, administrators, successors and assigns, shall be deemed to have absolutely and unconditionally released and forever discharged Plaintiff, the Settlement Class and Plaintiff's Counsel (collectively, the "Plaintiff Released Parties") from any and all claims relating to the institution or prosecution of the Action or the settlement of any Released Claims, except that this release shall not include any claims relating to the covenants or obligations set forth in this Settlement Agreement.

12. As of the date of Final Settlement Approval, all release provisions within the Settlement Agreement shall be given full force and effect in accordance with each and all of their express terms and provisions, including those terms and provisions relating to unknown, unsuspected, or future claims, demands, or causes of action. Further, Plaintiff assumes for himself and on behalf of the Settlement Class, and Defendants assume for themselves, the risk of any

subsequent discovery of any matter, fact, or law, that, if now known or understood, would in any respect have affected or could have affected any of the Parties' entry into the Settlement Agreement.

13. As of the date of Final Settlement Approval, Plaintiff, the Settlement Class, the SIP, and members of the Settlement Class, and their respective heirs, executors, administrators, successors and assigns are hereby barred and enjoined from the institution and prosecution, either directly or indirectly, of any claims related to the Action and from asserting, maintaining, or enforcing any actions in any court or other tribunal alleging any and all Released Claims against any and all Released Parties.

14. Class Counsel are hereby awarded attorneys' fees in the amount of $703,800 (the "Attorneys' Fees"). The Attorneys' Fees have been determined by the Court to be fair, reasonable and appropriate. No other fees may be awarded to Class Counsel in connection with the Settlement Agreement. The Attorneys' Fees shall be paid to Class Counsel in accordance with the terms of the Settlement Agreement.

15. Class Counsel are hereby awarded reimbursement of expenses in the sum of $48,893.21 (the "Attorneys' Expenses"). The Attorneys' Expenses have been determined by the Court to be fair, reasonable, and appropriate. No other costs or expenses may be awarded to counsel in connection with the Settlement Agreement.

16. Plaintiff is hereby awarded a case contribution award in the amount of $10,000. The case contribution award has been determined by the Court to be fair, reasonable and appropriate. In addition to the case contribution award, Plaintiff is also eligible for a share of the payment from the Settlement Fund as a member of the Settlement Class. Other than these payments, no other award shall be awarded to Plaintiff in connection with the Settlement Agreement. The case contribution award shall be paid to Plaintiff in accordance with the terms of the Settlement Agreement.

17. The Court determines that to the best extent possible, Defendants have fully complied with the notice requirements of the Class Action Fairness Act of 2005, as codified at 28 U.S.C. § 1715.

18. The Plan of Allocation for the distribution of the Net Settlement Fund, as submitted by the Parties, is approved as fair, reasonable and adequate.

19. The Court finds that the payment and distribution of the Settlement Amount, as allocated in the Agreement, is a "restorative payment" as defined in IRS Revenue Ruling 2002-45.

20. Without affecting the finality of this Order and Final Judgment, the Court shall retain continuing jurisdiction over (a) the implementation, administration, and consummation of the Settlement Agreement; (b) the Litigation until the Final Approval Date occurs and each and every act agreed to be performed by the Parties to the Settlement Agreement shall have been performed in accordance with the Settlement Agreement; and (c) all Parties to the Action and the Settlement Agreement for the purpose of taking such other actions as may be necessary to conclude and administer this Settlement and to implement and enforce the Settlement Agreement.

Dated: 11/15, 2012

HAROLD BAER, JR.
United States District Court Judge